It is evident then that the support given by *Foakes* v. *Beer* to the principle stated in *Pinnel's Case* was merely by way of dictum; and little other modern authority is to be found. Yet the principle has been sanctioned by lawyers of such eminence as Yelverton, Lord Coke, and Lord Ellenborough; it is supported by a few cases directly in point, and has been assumed in innumerable decisions. *Richards & Bartlet's Case*, 1 Leon. 19; *Fitch* v. *Sutton*, 5 East, 230. The lack of direct authority upon the point is to be explained mainly by the fact that it was not disputed. The courts in this country have shown little disposition to question the principle, and a conservative observer would declare that it had won its place in the common law.

It cannot be denied, therefore, that the Mississippi court has ignored authority. If, however, this neglect can be condoned, it must be admitted that a healthy conclusion has been reached. There is much force in Lord Blackburn's view (see *Foakes* v. *Beer*, *supra*) as to the possible benefit to the creditor who accepts the smaller sum, especially if the debtor is in danger of insolvency. Moreover, an analogy may be drawn with the rule of the law of contracts, whereby one party who has waived performance by the other is estopped from complaining of the consequent breach. There seems to be no reason for making a distinction when instead of a contract obligation there is a debt, and the creditor waives payment as to a part of it by accepting the smaller sum in full satisfaction. He should not afterwards be heard to complain of the non-payment of the remainder.

THE PLEDGEE OF NEGOTIABLE PAPER AS A BONA FIDE PURCHASER. — In a recent Montana case, *Yellowstone National Bank* v. *Gagnon*, 48 Pac. Rep. 762, it was held, in accordance with the established rule, that where the maker has a good equitable defence against the payee of a note, the indorsee before maturity, taking the instrument as collateral security for a debt of the indorser, is a *bona fide* purchaser only to the extent of the debt secured. Upon similar principles, a note given by a principal as indemnity to his surety is enforceable only to the extent of the surety's payments. The courts also hold that, where paper is pledged by the party accommodated, the accommodating maker or acceptor is responsible only for the amount of the pledgee's claim against the pledgor. 2 Ames's Cases on Bills and Notes, 20.

It is conceived that the pledgee, in such a case as *Yellowstone National Bank* v. *Gagnon*, *supra*, being the legal holder of the instrument, would be entitled at common law to recover its whole face value. Yet, were this allowed, the pledgor would at once recover from the pledgee the amount in excess of the obligation secured, and the pledgor, in turn, would be compelled to pay over the money to the maker. It is to prevent this triple circuity of action that the law allows the maker a purely equitable defence to the action by the pledgee. The case would clearly be different, however, had the maker no defence against the pledgor. Under such circumstances the pledgee not only has the legal title to the paper, but cannot be met by the plea of circuity of action. He is permitted, therefore, to recover the full face value of the instrument, holding the amount in excess of his claim against the pledgor as the latter's trustee. If this were not the law, the maker might suffer the injustice of being subjected to two actions in regard to the same matter, — one by the

pledgee for the amount of his claim against the pledgor, and the other by the pledgor for the balance. In any event the law results in no hardship to the pledgee, for he is fully protected to the extent of the pledgor's obligation in his favor.

GREAT ENGLISH JUDGES — EXCHEQUER. — From 1834 to 1855 the ruling power in the Court of Exchequer, and indeed the dominant figure of the English bench, was Sir James Parke, afterwards Baron Wensleydale. He was born at Highfield, near Liverpool, in 1782, and was educated at the grammar school of Macclesfield, and at Trinity College, Cambridge. After studying with a special pleader, he was called to the bar at the Inner Temple, where his career, though not brilliant, was creditably successful. In 1828 he was appointed to the King's Bench, and knighted; in 1833 he was sworn of the Privy Council, and the next year was transferred to the Exchequer. Baron Parke ranks as one of the greatest of English judges; had he comprehended the principles of equity as fully as he did the principles of the common law, he might fairly be called the greatest. His mental power, his ability to grasp difficult points, to disentangle complicated facts, and to state the law clearly, have seldom been surpassed. No judgments delivered during this period are of greater service to the student of law than his. He had, perhaps, too great respect for authority, and was rather too much disinclined to go against a previous decision. He is reported to have said, "I think a solemn judgment should refer to every case on the subject." His detractors, of whom perhaps the chief was the late Lord Coleridge, accuse him also of an absurd devotion to the forms rather than to the substance of law. The classical remark attributed to him is, "Think of the state of the record!" But though as a complete master of the subtleties of special pleading he stands as the great exponent of that perhaps too exacting system, it may be questioned whether his efficiency as a judge was in this wise materially impaired. Baron Parke resigned from the Exchequer in disgust with the Common Law Procedure Acts of 1854 and 1855. The next year he was raised to the peerage; to the end of his life he took part in the legal deliberations of the House of Lords. He died at his seat in Bedfordshire in 1868 at the age of eighty-five.

Baron Parke was succeeded in the Exchequer by Sir George Bramwell, later Lord Bramwell. The herald and chief exponent of reform in the conduct of the law courts, and standing, in popular estimation at least, for diametrically opposed ideas, Baron Bramwell resembles his illustrious predecessor in that, like him, for years he was the great judge in the Court of Exchequer. He was born in London in 1808, and was educated at a private school in Enfield. After spending some time in his father's London bank, he studied special pleading under Mr. Fitzroy Kelly, later Chief Baron. Finding this branch of the law neither congenial nor profitable, he resolved to be called to the bar, where, after a few years, he acquired a large practice. Never a brilliant nor an eloquent speaker, his success was due largely to his simple and convincing manner in talking to juries. He was made Queen's Counsel in 1851. He was appointed by Lord Cranworth one of the commissioners to inquire into the working of the common law courts, with which at this time there existed general dissatisfaction. His investigations in this behalf and subsequent recommendations, together with those of Mr. Willes, were largely responsible for the